

REMARKS

Reconsideration of this application as amended is respectfully requested.

Claims 1-23 are pending. Claims 1, 2, 12, 13, 15, 16 and 19 have been amended. Support for the amendments is found in the specification, the drawings, and in the claims as originally filed. Applicant submits that the amendments do not add new matter.

Rejections Under 35 U.S.C. § 101

Claims 1-15 were rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-15 have been amended to specify that the claimed method is computer-implemented, as supported by the present specification (e.g., para [0039] through para [0041]). As such, the claimed invention is within the technological arts and produces a useful, concrete and tangible result of producing an optimal solution for selecting winning bids.

Rejections Under 35 U.S.C. § 102(e)

Claims 1-23 were rejected under 35 U.S.C. § 102(e) as being anticipated by French, et al, (U.S. Patent Application No. 2002/0037281, hereinafter “French”). Notwithstanding the following remarks, Applicant reserves the right to swear behind the French reference.

French discloses a method for conducting an electronic auction in which carriers submit price quotes for goods or services in response to a request by a consumer who desires to purchase the goods or services.

Contrary to the presently claimed invention, French does not teach or suggest generating, upon completion of bidding for multiple lots, a first and second optimal solution from bids submitted for the multiple lots, where the first optimal solution has a different number of suppliers than the second optimal solution. Instead, in French, the process of choosing finalists is divided into two phases: at the end of phase 1, a number of carriers are chosen to move to phase 2, and then at phase 2, the bidding between the selected carriers continues to identify the finalists. That is, in French, the

first solution (phase 1 result) is determined before the bidding is completed, and the second solution (phase 2 result) is determined after the bidding is completed. In the presently claimed invention, in contrast, both solutions are generated upon completion of bidding for the lots. Accordingly, French does not teach or suggest the pertinent features of the present invention that are included in the following language of claim 1:

... upon completion of bidding for the plurality of lots, generating at least a first and second optimal solution from the bids in the database, the first optimal solution having a different number of suppliers than the second optimal solution.

Similar language is also included in claims 15, 16, 19 and 23. Thus, the presently claimed invention, as claimed in claims 1, 15, 16, 19 and 23, and their corresponding dependent claims is not anticipated by French. Applicant respectfully requests the withdrawal of the rejections under 35 U.S.C. § 102(e) and submits that the pending claims are in condition for allowance.

Deposit Account Authorization

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Marina Portnova at (408) 720-8300.

Respectfully submitted,

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By: _____



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